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Security Council

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Letter dated 14 November 2002 from the Secretary-General addressed to the President of the Security Council

In accordance with article 4, paragraph 13, of the Peace Agreement of 12 December 2000, the Eritrea-Ethiopia Boundary Commission has transmitted to the Interim Chairman of the African Union and to the Secretary-General of the United Nations its Determinations of 7 November 2002 for publication. The Determinations and transmittal letter, dated 8 November 2002, are annexed to the present letter.

I should be grateful if you could bring the Determinations to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

02-69520 (E) 151102

Annex

Letter dated 8 November 2002 from the Registrar of the Eritrea-Ethiopia Boundary Commission addressed to the Secretary-General

Article 4, paragraph 13, of the Agreement of 12 December 2000 between the Democratic Republic of Ethiopia and the State of Eritrea provides as follows:

> "Upon reaching a final decision regarding delimitation of the borders, the Commission shall transmit its decision to the parties and Secretaries-General of the OAU and the United Nations for publication ...".

In the spirit of the language of the 12 December 2000 Agreement, the President of the Boundary Commission has requested me to transmit to you and the Secretary-General of the African Union the attached text of the Commission's Determinations of 7 November 2002.

(*Signed*) Bette E. **Shifman**
Registrar of the Boundary Commission

Enclosure

ERITREA - ETHIOPIA BOUNDARY COMMISSION

DETERMINATIONS

7 November 2002

WHEREAS,

1. Questions have arisen as to the scope of the Commission's jurisdiction and powers,

2. Article 4(2) of the December 2000 Agreement mandates the Commission "to delimit and demarcate" the border between the Parties,

3. Article 4(15) of the same Agreement provides that "the delimitation and demarcation determinations of the Commission shall be final and binding" and that "[e]ach party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party",

4. Article 14(A) of the Demarcation Directions provides: "The Commission has no authority to vary the boundary line. If it runs through and divides a town or village, the line may be varied only on the basis of an express request agreed between and made by both Parties",

5. The Security Council of the United Nations in resolution 1430 (2002) of 14 August 2002 called upon the parties "to cooperate fully and promptly with the Boundary Commission, including by implementing without conditions its binding Demarcation Directions, by abiding promptly by all its orders, including the two issued on 17 July 2002",

6. The Delimitation Decision of 13 April 2002 is final and binding in respect of the whole of the boundary between the Parties with the exception of Tserona, Zalambessa, Bure, the Eastern Sector, and the rivers, to the limited extent therein stated,

7. The Commission on 13 April 2002 stated that it "considers that the fact that it must now proceed to demarcate the boundary in accordance with the December 2000 Agreement does not qualify the immediate effect of the determination of the boundary between the Parties and the limits of their respective sovereignties",

8. Both Parties have stated that they accept the Delimitation Decision as final and binding,

9. The Commission is bound, in implementation of the December 2000 Agreement, to proceed expeditiously to complete the delimitation in the above-mentioned localities and to demarcate the whole of the boundary,

10. The Commission believes that it would be helpful to the Parties in discharging their duties to each other and to the Commission for the Commission to determine the legal position in respect of certain matters,

The Commission, having considered the views of the Parties, now determines as follows:

1. The jurisdiction and powers of the Commission extend to its taking cognizance of, and where necessary making appropriate decisions on, any matter it finds necessary for the performance of its mandate to delimit and demarcate the boundary;

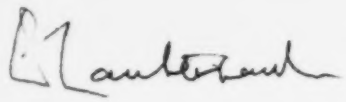
2. The Commission is accordingly entitled to take cognizance of any population movement across the boundary as determined in the Delimitation Decision and to make such orders as it finds necessary in relation to any such population movements, insofar as such movement may affect the process and implementation of demarcation;

3. Having regard to the Commission's Order of 17 July 2002, Ethiopia, in failing to remove from Eritrean territory persons of Ethiopian origin who have moved into that territory subsequent to the date of the Delimitation Decision, has not complied with its obligations;

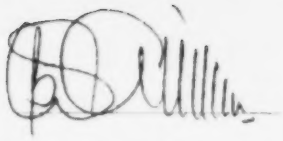
4. Any decision by the Commission to inspect, whether by land or air, any location in the boundary area, and in particular Tserona or Zalambessa or their environs in implementation of paragraph 8.1.B iv and vi of the Delimitation Decision, is a decision foreseen in operative paragraph 1 above, and must be complied with.

The Commission expects the Parties to act in accordance with these determinations.

London, 7 November 2002
Signed by the Commission:



Professor Sir Elihu Lauterpacht, President



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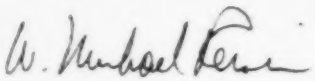

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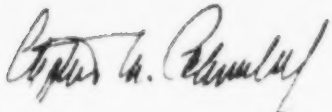
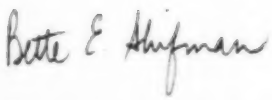


Judge Stephen M. Schwebel

Sir Arthur Watts

Dr. Hiroshi Murakami, Secretary



Bette E. Shifman, Registrar